

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOTE-00 INR-07 NSAE-00 FAA-00 L-02 /031 W

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R 211508Z MAY 75

FM AMEMBASSY VIENNA
TO SECSTATE WASHDC 5738
INFO AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY THE HAGUE
AMEMBASSY PARIS
AMEMBASSY BRUSSELS

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EO 11652: N/A

TAGS: EAIR , AU

SUBJ: CIVAIR: PAN AM COMMISSION PLAN

REF: VIENNA 4203 AND PREVIOUS (NOTAL)

1. LOCAL PAN AM REP IN ABSENCE OF AREA DIRECTOR LOY)
PHONED EMBASSY THIS MORNING AND RELAYED FOLLOWING
MESSAGE WHICH PAN AM AUSTRIA HAS RECEIVED FROM
PAN AM OFFICE IN LONDON:
(QUOTE) IN CONNECTION WITH THE INCENTIVE COMMISSION
PLAN, STATE DEPARTMENT IS SUPPORTING PAN AM INR
CRITICAL AREAS. DEPARTMENT DELUGED BY REQUESTS FOR
GUIDANCE FROM EMBASSIES, STIMULATED BY LOCAL PAN AM
INQUIRIES. IN ORDER MINIMIZE BURDEN, WE ARE SPELLING
OUT BELOW A QUOTATION WHICH STATE DEPARTMENT HAS
SUPPLIED US WHICH CAN BE QUOTED VERBATIM WITHOUT
REQUESTING PERMISSION THROUGH EMBASSIES:

"WHERE FOREIGN GOVERNMENTS CLAIM THAT
COMMISSIONS ARE PART OF THE TARIFF
STRUCTURE AND THAT, THEREFORE, THE RATE
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ARTICLES IN BILATERAL AIR TRANSPORT AGREEMENTS COME INTO PLAY, THE DEPARTMENT OF

STATE IS TAKING THE POSITION THAT THE
UNITED STATES DOES NOT REGARD COMMISSIONS
AS PART OF TARIFF AND THAT, THEREFORE,
THE RATE ARTICLES IN BILATERAL AGREEMENTS
ARE NOT RELEVANT."

(QUOTE) THE DEPARTMENT HAS ALREADY TAKEN THE POSITION
WITH A NUMBER OF COUNTRIES THAT THE BILATERAL AGREEMENT
CANNOT BE CONSTRUED TO AUTHORIZE ANY ACTION AGAINST US
FLAG CARRIERS BASED ON ATTEMPT TO REGULATE COMMISSIONS
PAID FOR SALES IN THE TERRITORY OF THE US OR IN ANY
OTHER COUNTRY OUTSIDE THE TERRITORY OF THE GOVERNMENT
SEEKING TO REGULATE SUCH COMMISSIONS. THE QUESTION
WHETHER A LOCAL GOVERNMENT CAN REGULATE COMMISSIONS ON
LOCAL SALES IS ONE THE BE DETERMINED AS A MATTER OF
LOCAL LAW. THE ABOVE POSITIONS CAN BE CONVEYED TO THE
LOCAL AUTHORITIES AS REPRESENTING THE GENERAL POSITION
OF THE US GOVERNMENT APPLICABLE EVERYWHERE. (UNQUOTE)

2. LOCAL REP ASKED IF EMBASSY HAS BEEN IN TOUCH
WITH GOA CONCERNING BILATERAL. WE INFORMED HIM
EMBASSY HAS NOT BEEN IN CONTACT WITH GOA AND HAS HAD
NO INSTRUCTIONS TO DO SO.

3. LOCAL REP REPEATED THAT HE IS UNDER INSTRUCTIONS
TO IMPLEMENT 10 PERCENT PLAN UNLESS IT IS DETERMINED
TO BE CONTRARY TO LOCAL LAW. LOCAL REP INFORMED US
HE IS RECOMMENDING TO PAN AM'S LONDON OFFICE TODAY
THAT PAN AM NOT REPEAT NOT ATTEMPT TO IMPLEMENT 10 PERCENT COM-
MISSION PLAN HERE ON GROUND IT MIGHT BE DETRIMENTAL TO PAN
AM'S INTERESTS IN AUSTRIA. AS FAR AS WE KNOW, PAN
AM HERE HAS NOT BEEN IN TOUCH WITH GOA SINCE RECEIPT
OF GOA LETTER OF APRIL 17 STATING PAN AM'S COMMISSION
PLAN NOT PERMISSIBLE IN AUSTRIA.BUCHANAN

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